

REMARKS

Favorable reconsideration and allowance of this application are requested.

By way of the amendment instructions above, the independent claims have been revised so as to emphasize that the substrate layer is a thermoplastic polyolefin (TPO) and the clear coat layer is a polyvinyl fluoride (PVF). Accordingly, claims 9-11 have been cancelled as redundant. claims 31-34 have also been cancelled in order to advance prosecution on the merits of this application. Such cancellation has been effected, however, without prejudice to applicants' rights to pursue such subject matter in a timely filed divisional application.

Claims 1-8 and 26-30 therefore remain pending in this application for which favorable reconsideration and allowance are requested.

Claims 1, 9-11 and 2-30 attracted a rejection under 35 USC §103(a) as allegedly being "obvious", and hence unpatentable, over WO 00/30849 in view of Smith (USP 6,187,233) and in view of Gerlowski et al (USP 4,996,086) or Machado et al (USP 5,369,180). Applicants respectfully suggest that none of the applied publications is appropriate as a reference against the presently pending claims.

In this regard, the WO '849 publication discloses a tie layer having a styrenic polymer backbone grafted with at least one polymerizable ethylenically unsaturated carboxylic acid which may be interposed between a first layer comprised of a polyolefin or a polystyrene composition and a second layer which is comprised of a **polyketone** composition.

While it is true that the secondary reference to Smith discloses a laminate containing TPO and PVF layers laminated to one another, it is equally true that Smith

suggests that no tie layer is needed at all. In this regard, Smith at column 11, line 67 bridging column 12, line 1 discloses that "...pressure and heat caused the [TPO and PVF] layers to ***mechanically bond***." (emphasis added)

Hence, the WO '849 publication would not suggest to an ordinarily skilled person that the therein disclosed grafted styrenic polymer would or could be employed as a tie layer to adhesively bond a TPO layer and a PVF layer -- since WO '849 discloses that one of the layers must necessarily be a polyketone. Moreover, an ordinarily skilled person would not be appraised from Smith that a tie layer is desirable at all -- i.e., since Smith discloses that the layers are directly mechanically bonded to one another via heat and pressure.

The relevance of Gerlowski et al and Machado et al to the presently claimed invention is respectfully questioned. True, both Gerlowski et al and Machado et al disclose that polyketones -- not polyvinyl fluorides (PVF's) -- may be employed as a transparent layer. However, such disclosure certainly does not cure the deficiencies of either the WO '849 publication or Smith as discussed previously.

Thus, withdrawal of the 35 USC §103(a) based on WO '849 publication in view Smith and in view of Gerlowski et al or Machado et al is in order.

Hwang et al and Spain et al likewise fail to render obvious the present invention as asserted by the Examiner in paragraph 9 of the subject Official Action. In this regard, applicant respectfully disputes the Examiner's characterization that Hwang et al "...discloses multilayer laminate comprising a printable layer and a thermoplastic polyolefin layer, wherein the paintable layer comprises a SEBS block." Instead, applicant submits that the actual disclosure of Hwang et al relates to ***blending*** of components A, B and C, wherein component A is a modified polypropylene, component B may be a styrene block copolymer, and component C may be an interpolymer of ethylene and an α,β -unsaturated carbonyl monomer. That components A-C are

blended together is evident by the characterization of the components as a *composition*, and by the disclosure appearing at column 9, lines 58-60 that:

"The components of the composition of this invention are mixed with one another in any conventional manner that insures the creation of a ***relatively homogeneous blend***."
(emphasis added)

Thus, Hwang et al self-evidently does not suggest to those ordinarily skilled in the art that the individual components A-C may be separate "layers" which are laminated one to another.

Spain et al fails to cure the glaring deficiency of Hwang et al as noted above. Specifically, applicants are not claiming to be the first inventors of employing a PVF clear coat layer *per se*. This is simply all that Spain et al can arguably be said to disclose. There is absolutely no suggestion at all in Spain that a PVF clear coat could be laminated with a TPO layer via a tie layer as defined in the present applicants invention. And, even if an ordinarily skilled person might somehow combine Hwang et al and Spain et al in the manner suggested by the Examiner, the present invention would not result since, as noted above, Hwang et al discloses a ***blend*** of components and ***not*** a series of laminated layers.

Withdrawal of the rejection advanced under 35 USC §103(a) based on Hwang et al and Spain et al is therefore likewise in order.

The rejection advanced by the Examiner under 35 USC §103(a) to reject claims 1-2, 4-11, 26 and 31-34 is suggested to be in error. Specifically, Quinn et al and Komatsuzaki et al both teach generally adhesive compositions. Neither reference, as far as applicants can discern, teach or suggest employing a tie layer as claimed herein so as to bond a ***TPO*** substrate to a ***PVF*** clear coat layer. Applicants note that the

Examiner has asserted that it is well known to employ PVF and TPO without citation to any specific art reference and without stating how and in what manner such art suggests using at all the specific tie layer as claimed herein, let alone the adhesives disclosed in either Quinn et al or Komatsuzaki et al¹. However, as evidenced by the discussions above with respect to the applied Smith reference, the suggestion in this art is that TPO and PVF layers do not need a tie layer at all. Hence, one of ordinary skill in this art would not look to Quinn et al or Komatsuzaki et al in even the first instance.

Withdrawal of the rejection under 35 USC §103(a) based on Quinn et al or Komatsuzaki et al is therefore in order.

The Examiner's rejections advanced in paragraphs 11 and 12 have been rendered moot by the inclusion of the claim 10 subject matter into each of the independent claims. To be sure, neither Saitoh et al, Beuzelin et al or Smith et al disclose or suggest employing the various layers as now defined in applicant's pending claims.

II. Response to Double Patenting Rejection

Claims 1-4, 9-11 and 25-30 attracted a provisional rejection under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-34 of copending U.S. Application Serial No. 09/993,909 (hereinafter "the '90 application"). Reconsideration and withdrawal of such rejection is requested.

For the Examiner's convenience, independent claims 1 and 27 as presented with the Amendment dated March 4, 2004 in the '909 application are reproduced in Appendix A hereto. The Examiner will observe that the claims now pending in the '909 application

¹ In the event this rejection is based upon facts within her personal knowledge, she is hereby asked to submit an affidavit of such facts as required by the Rules. In the absence of such affidavit, the Examiner's statements amount to nothing more than speculation which renders the rejection per se in error.

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define a tie layer which is comprised of an adhesive-enhancing effective amount of a ***linear styrene-ethylene/butylene-styrene backbone with at least about 0.5 wt% of maleic anhydride grafted onto said backbone*** so as to adhesively bond the substrate and clear coat layers one to another. In contrast, the present invention defines the tie layer more generically as a styrenic block copolymer. It is suggested therefore that such species are patentably distinct one over the other and hence not subject to the "double patenting" doctrine. Indeed, this position is even further supported by the fact that the Examiner considers branched and linear styrenic block copolymers to be patentably distinct species (i.e., since she has required an election therebetween in the Action of September 23, 2003).

Withdrawal of the "double patenting" rejection base do on the '909 patent is therefore in order.

Conclusion

Every effort has been made to advance prosecution of this application. Therefore, in view of the amendments and remarks presented herewith, it is suggested that this application is in condition for prompt allowance and Official Notice to that effect is solicited.

Respectfully submitted,

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APPENDIX – Pending Claims 1 and 27 in USSN 09/993,909

1. A laminate comprised of a thermoplastic polyolefin (TPO) substrate layer, a polyvinyl fluoride (PVF) clear coat layer, and a tie layer interposed between said TPO substrate and PVF clear coat layers which is comprised of an adhesive-enhancing effective amount of a linear styrene-ethylene/butylene-styrene backbone with at least about 0.5 wt% of maleic anhydride grafted onto said backbone, said tie layer adhesively bonding said substrate and clear coat layers one to another.

27. Automotive trim which comprises as a visible component a laminate comprised of a thermoplastic polyolefin (TPO) substrate layer, a polyvinyl fluoride (PVF) clear coat layer, and a tie layer interposed between said TPO substrate and PVF clear coat layers which is comprised of an adhesive-enhancing effective amount of a linear styrene-ethylene/butylene-styrene backbone with at least about 0.5 wt% of maleic anhydride grafted onto said backbone, said tie layer adhesively bonding said substrate and clear coat layers one to another.